

V. RCRA COMPLIANCE REQUIREMENTS

A. Beginning on the date of lodging of this Consent Decree and continuing thereafter, Weirton shall comply with all requirements of RCRA, 40 C.F.R. Parts 260 through 272 and 279, the West Virginia Hazardous Waste Management Regulations ("WVHWMR") W.Va. Code Sec. 22-15-1 et seq., and the RCRA Permit as applicable to activities, conditions and facilities at its facility in Weirton, West Virginia (the "Facility"). Without limiting this general requirement, Weirton shall meet the requirements imposed in the following paragraphs B through AH.

B. Waste Stream Identification and Waste Determinations -
For purposes of this Waste Stream Identification and Waste Determinations section, the term "Contactor" shall mean PORI International, any successor oil or acid processor located on the Facility, IMS, any successor to IMS located at Defendant's Facility and contractors providing the following services at the Facility: asbestos removal; demolition; slag processing; painting; waste handling, including vacuum truck operators; and construction.

1. Waste Stream Identification - Defendant shall, in accordance with the schedule and requirements set forth herein, conduct a waste stream identification program for the Facility. The waste stream identification program shall address both Weirton Steel operations and operations conducted by Contractors as defined in Paragraph B of this Section V (RCRA Compliance Requirements) at the Facility.

a. On or before March 1, 1997, Defendant shall complete the waste stream identification program for the Facility as described below:

(1) Identify each process and/or process group and prepare a narrative describing each such operation, including process steps, production capacity and the most recent annual production in a hard copy or electronic "fact sheet."

(2) Develop a schematic process flow diagram for each current process and/or process group. All process flow diagrams developed pursuant to this requirement shall use consistently defined terms and labels. A glossary of commonly used terms shall be prepared and updated, as necessary. Each process flow diagram shall, as a minimum, depict each unit operation and identify (by name) products, by-products, recyclable materials and waste streams.

(3) On each process flow diagram, for each waste stream and recyclable material exiting the process, identify its final disposition. Identify any state-assigned emission point source identification number for air emission sources and indicate the respective National Pollutant Discharge Elimination System ("NPDES") permitted outfall for wastewater streams.

(4) For each process or process group, indicate the presence of sidesumps, pump stations, scale pits, and hazardous waste accumulation areas containing 55 gallons or more.

(5) If a hazardous waste determination was made for a waste stream or group of waste streams identified on the process flow diagram, indicate the results of that determination either on the schematic or on the "fact sheet" and quantity generated during the last calendar year.

(6) For each Weirton Steel Contractor having operations at the Facility, the Environmental Control Department shall compile pertinent information including complete company names, mailing addresses, principal contacts for environmental matters and their telephone numbers, RCRA I.D. numbers, if applicable, and brief description of the services rendered and include this information on the fact sheet.

b. Upon completion of the waste stream identification program, but not later than March 1, 1997, the Defendant shall submit to EPA and WVDEP for review all process flow diagrams, fact sheets and the glossary of commonly used terms.

c. Defendant shall review annually and update as necessary the process flow diagrams and fact sheet information to incorporate new equipment, or processes, or modifications to existing equipment or processes. Defendant shall include all revision dates on the process flow diagrams and fact sheets.

2. Waste Determinations

a. Defendant shall, in accordance with the schedule set forth in 2.b.(5) and the requirements herein, perform a waste determination on each and every solid waste stream, other than spills, generated at the Facility at the point of generation, pursuant to 40 C.F.R. § 268.7. Each waste stream for which a determination is made shall be assigned a unique identification number. The results of these determinations shall be correlated to the unique waste stream identification number and recorded and maintained on waste characterization profile sheets and in a computer database as described in Paragraph 2.b. below.

b. Waste Characterization Profile Sheets and Database

(1) On or before November 1, 1996, Defendant shall submit to EPA for review and approval and WVDEP for review a Waste Determination Development and Implementation Plan ("WDDI Plan") prepared for the purpose of identifying and characterizing waste streams. The plan shall describe procedures to accomplish the following:

- (a) identify and characterize RCRA solid waste streams at the Facility;
- (b) identify RCRA hazardous and nonhazardous solid wastes including, but not limited to, RCRA hazardous wastes pursuant to the mixture, derived-from and contained-in rules;
- (c) make RCRA Land Disposal Restrictions ("LDR") determinations;
- (d) determine and approve waste disposition;

(e) develop and maintain waste characterization profile sheets and a database, both of which contain waste determinations, LDR determinations, and disposition decisions made on both sewer and non-sewer waste streams; and

(f) identify, list, and track waste streams whose generation or impact could potentially be eliminated or reduced through pollution prevention and/or waste minimization projects.

(2) For a period of two years after EPA's approval of the WDDI Plan any modification made to the WDDI Plan affecting information relevant to any RCRA waste determination shall be submitted to EPA and WVDEP for review and comment at least thirty (30) days prior to the implementation of such modification.

(3) In satisfaction of its record retention obligations for waste characterizations under Paragraph [] of this Consent Decree, Defendant shall preserve and maintain the waste determination information on the waste characterization profile sheets and in the database for the period set forth in Paragraph ____ of the Consent Decree, and additionally shall retain any and all documentation of waste analyses conducted pursuant to WVHWMR § 6.1. for the period specified in WVHWMR § 6.4.

(4) EPA will provide its and WVDEP's comments on the WDDI Plan within ninety (90) days of EPA's receipt of such Plan unless EPA or WVDEP notifies the Defendant in writing that additional time for review and approval is required. WVDEP's review and EPA's review and approval will not extend beyond one hundred and fifty (150) days of EPA's receipt of the WDDI Plan.

(5) Defendant shall commence implementation of the EPA-approved WDDI Plan as follows:

(a) Defendant shall commence data acquisition and input in accordance with the WDDI Plan and shall complete data acquisition and input to "maintenance level" on or before March 31, 1997.

"Maintenance level" is defined as the condition at which all waste streams from all current processes have been identified and characterized, except as provided in Paragraph (5)(b) below. "Current process" is defined as any process in use at any time during the twelve (12) month period of time prior to EPA's approval of the WDDI plan.

(b) Waste streams not associated with current processes or generated after EPA's approval of the WDDI Plan shall be identified, characterized and input into the database within ten (10) working days after initial generation of the subject waste stream, or if laboratory waste analyses are being performed within ten (10) working days of receipt of the written analytical results, but in no case more than sixty (60) days following the initial generation of the waste stream.

c. Reporting Requirements

(1) On or before April 30, 1997 the Defendant shall submit to EPA and WVDEP a Waste Characterization Report, identifying, for all Weirton Steel operations and Contractor operations conducted at the Facility, the number of solid waste streams characterized pursuant to WVHWMR § 6.1.1 and included in the waste characterization profile sheets and/or database.

(2) For each waste stream identified as subject to a variance, exclusion or exemption from the definition of solid or hazardous waste, the Waste Characterization Report shall provide the applicable variance, exclusion or exemption, the date of the waste characterization profile, a waste characterization profile identification number, and the department generating the waste.

(3) For each waste stream characterized as hazardous waste, the Waste Characterization Report shall provide the following information:

- (a) the applicable RCRA hazardous waste number;
- (b) how the determination was made (process knowledge and/or analytical testing);
- (c) the date of the waste characterization profile;
- (d) the waste characterization profile identification number ;
- (e) the department generating the waste;
- (f) the destination to which the generator department sends the waste;
- (g) the LDR determination status, pursuant to 40 C.F.R. § 268.7; and
- (h) whether the waste has been identified as a candidate for further study in a waste minimization or pollution prevention project.

(4) EPA and WVDEP reserve the right to inspect and review any information available on the waste characterization profile sheets and in the database related to compliance with applicable regulations and this Consent Decree.

C. Environmental Management System

1. Upon the effective date of this Decree, Defendant shall provide to EPA and WVDEP in writing the name, affiliation and address of the individual(s) selected by the Defendant to conduct the Initial EMS Review and Evaluation, how such individual(s) satisfies the proficiency criteria described in the American Society for Testing of Materials ("ASTM") Provisional Standard 12-95 - Provisional Standard Guide for Study and Evaluation of An Organizations Environmental Management Systems, and the schedule, including milestones, for conducting the Initial EMS Review and Evaluation.

2. The individual identified pursuant to paragraph C.1 above shall conduct an initial

review and evaluation of the current EMS relating to the operations of both Weirton Steel and Contractors, as defined in paragraph C.17 below. The Defendant shall review and evaluate the current EMS to identify gaps using the elements set forth in paragraphs C.4.a(1) through (11) below.

3. Based on the Initial Review and Evaluation results and other information, Defendant shall prepare a written Comprehensive EMS for the Facility addressing, at a minimum, the eleven key elements presented in paragraphs C.4.a(1) through (11) below. The purpose of preparing the Comprehensive EMS is to assist Weirton Steel in its program to comply with federal, state and local environmental statutes and regulations, including permits (hereinafter in this Section C (Environmental Management System) referred to as "environmental requirements").

4. Within two hundred seventy (270) days of the effective date of this Decree, Defendant shall complete the preparation of an "Environmental Management System Manual" which shall include the Comprehensive EMS, an EMS implementation schedule and rationale identifying proposed changes to the current EMS and explaining what the changes are intended to accomplish. For each of the elements identified in paragraphs C.4.a(1) through (11) below, as appropriate, the manual shall provide a detailed blueprint of the EMS, describing how the activity or program is or will be: (a) established as a formal system, (b) integrated into ongoing department operations, and (c) continuously evaluated and improved.

a. Defendant shall develop an Environmental Management System Manual

- The EMS Manual shall address the following elements:

(1) Management Policies and Procedures

(a) Corporate Environmental Policy - The policy shall communicate management commitment to environmental quality and compliance with environmental requirements.

(b) Site-specific Environmental Policies and Standards including the following elements:

i) Describes the process for identifying where written Mandatory Environmental Procedures ("MEP") are needed for activities that could cause adverse environmental impacts and/or noncompliance with environmental requirements. Also describes the process for developing, approving and communicating MEPs to affected employees and Contractors.

ii) Process flow diagrams as required in paragraph B (Waste Stream Identification and Waste Determinations) above which shall be reviewed and maintained by responsible line-management personnel.

iii) Description of organizational responsibilities for compliance with environmental requirements.

iv) Procedures for providing the Environmental Control Department with updated information regarding changes and proposed changes to environmental statutory and regulatory requirements and communicating relevant changes in environmental requirements to line-management personnel.

v) Procedures designed to increase and sustain interaction within the Facility between the various Contractors, operating departments, and the Environmental Control Department regarding environmental issues and compliance with environmental requirements.

(2) Organization, Personnel, and Oversight of EMS -

(a) Describes the responsibilities of different components of Weirton Steel's organization responsible for implementing the EMS.

(b) Includes organizational charts, descriptions of duties, responsibilities and authorities for all personnel in the Environmental Control Department and key environmental program personnel outside of the Environmental Control Department.

(3) Accountability and Responsibility - Specifies accountability and responsibilities of plant management and Contractors for environmental protection practices, compliance with environmental requirements and corrective actions implemented in their area(s) of responsibility. Also specifies the potential consequences of departing from MEPs.

(4) Environmental Requirements - Describes the process for identifying, understanding, and communicating environmental requirements and changes in such requirements to affected Weirton Steel personnel and Contractors.

(5) Assessment, Prevention, and Control

(a) Describes the procedures for the ongoing assessment of process and/or process group operations for the purposes of

preventing and controlling releases, environmental protection and statutory and regulatory compliance with environmental requirements. This shall include describing procedures to identify operations and waste streams where equipment malfunctions and deterioration, operator errors, and discharges or emissions may be causing, or may lead to, releases of hazardous waste or hazardous constituents to the environment or a threat to human health or the environment.

(b) Describes a system for conducting routine self-inspections by department supervisors and trained staff of equipment and operating practices which are likely to contribute to environmental releases or are related to compliance with environmental requirements.

(6) Environmental Incident and Non-Compliance Investigations - Describes MEPs for incident and non-compliance reporting, investigation, and development and tracking of corrective and preventative actions.

(7) Environmental Education and Training - Identifies environmental education and training programs for plant personnel and the process for documenting training provided.

(8) Planning for Environmental Matters - Requires establishing written environmental goals, objectives and action plans for operations and maintenance Departments, that affect compliance with environmental requirements including those for Contractor operations conducted at the Facility. Addresses how this planning will be integrated into other plans developed by the Departments, as appropriate.

(9) Maintenance of Records and Documentation - Identifies the types of records developed in support of the EMS, who maintains them, where such records are located and the protocols for responding to inquiries and requests for release of information. Describes the data management systems for any internal waste tracking, environmental data, and hazardous waste determinations.

(10) Pollution Prevention Program - Describes programs for identifying opportunities for reducing, recycling, reusing, and minimizing waste and emissions, including procedures to encourage material substitutions.

(11) Continuing Program Evaluation - Provides for at least an annual evaluation of the EMS, including procedures for incorporating the results of the assessment into program improvements, updating the manual and communicating findings to affected Weirton Steel employees and Contractors.

5. Defendant shall submit the complete Environmental Management System Manual to EPA and WVDEP for review and comment within thirty (30) days of its completion.

6. EPA will provide its and WVDEP's comments on the Environmental Management System Manual within ninety (90) days of EPA's receipt of such Manual unless, EPA or WVDEP notifies the Defendant in writing that additional time for review and approval is

required. WVDEP's review and EPA's review and approval will not extend beyond one hundred and fifty (150) days of EPA's receipt of the Environmental Management System Manual.

7. Weirton Steel shall, within thirty (30) days of receipt of EPA's and WVDEP's comments on the proposed EMS Manual, submit to EPA and WVDEP a supplement to the EMS Manual or a written response, as appropriate, addressing EPA's and WVDEP's comments. The EMS Manual shall contain an implementation schedule for initiating each component of the system not already implemented.

8. Within thirty (30) days of completing their reviews, EPA and WVDEP will return the supplement or written response, and the EMS Manual to the Defendant.

9. Upon Defendant's receipt of EPA's and WVDEP's comments, Defendant shall immediately commence implementation of the EMS in accordance with the schedule contained in the EMS Manual. The Defendant shall submit status reports regarding the implementation to EPA and WVDEP, on a quarterly basis, beginning no later than thirty (30) days from receipt of EPA's and WVDEP's comments on the manual. The status reports shall be due on the 15th day of the first month of the next quarter and every quarter thereafter until implementation is complete.

10. Within twenty (20) months of the effective date of this Decree, the Defendant shall provide to EPA and WVDEP in writing (1) the name, affiliation and address of the independent 3rd party consultant selected by the defendant to perform a Comprehensive EMS Review and Evaluation at the Facility; (2) how the selected independent 3rd party consultant satisfies the independence and proficiency criteria in the American Society for Testing of Materials (ASTM) Provisional Standard 12-95 - Provisional Standard Guide for Study and Evaluation of An Organizations Environmental Management Systems; and (3) a schedule, including milestones, for conducting the review. The review shall be performed in accordance with this ASTM Provisional Standard 12-95 - Provisional Standard Guide for Study and Evaluation of An Organizations Environmental Management Systems. The Defendant's contract with the 3rd party consultant shall require such 3rd party consultant to review and evaluate the implementation of the systems, policies and procedures described in the EMS Manual, using the EMS elements set forth in paragraphs C.4.a(1) through (11) above as criteria for the evaluation.

11. Within ninety (90) days after submitting the notification required by Paragraph C.10, above, the independent 3rd party consultant shall complete the Comprehensive EMS Review and Evaluation and submit a Comprehensive EMS Review and Evaluation Report to Weirton Steel, EPA and WVDEP, simultaneously. This report shall include (1) the results of the auditor's review and evaluation of the Facility EMS relating to both Weirton Steel and Contractor operations and (2) the auditor's recommendations for improvements to the Comprehensive EMS.

12. Within thirty (30) days after receipt of the independent 3rd party consultant Comprehensive EMS Review and Evaluation Report, Defendant shall provide to EPA and WVDEP for review and comment a written response to the recommendations presented in that

Report identifying those recommendations it does and does not intend to implement and/or plans to implement with modification(s). The Defendant shall include in its response an explanation of its rationale for not implementing and/or modifying the independent 3rd party consultant recommendations and a schedule for implementing changes to the EMS based on the Comprehensive EMS Review and Evaluation.

13. EPA will provide its and WVDEP's comments on the Comprehensive EMS Review and Evaluation Report within ninety (90) days of EPA's receipt of such Plan unless EPA or WVDEP notifies the Defendant in writing that additional time for review and approval is required. WVDEP's review and EPA's review and approval will not extend beyond one hundred and fifty (150) days of EPA's receipt of the Comprehensive EMS Review and Evaluation Report.

14. Weirton Steel shall, within thirty (30) days of receipt of EPA's and WVDEP's comments on the Comprehensive EMS Review and Evaluation Report, submit to EPA and WVDEP a written response to such comments.

15. Within thirty (30) days of completing their review of the Defendant's response to EPA's and WVDEP's comments, EPA and WVDEP will return the Comprehensive EMS Review and Evaluation Report to the Defendant.

16. Any submissions made to EPA or WVDEP pursuant to this Section C shall not be interpreted as a waiver or limitation of the United State's or the State of West Virginia's authority to enforce any federal, state, or local statute or regulation including permits.

17. For purposes of this Environmental Management System section, the term "Contactor" shall mean PORI International, any successor oil or acid processor located on Facility, IMS, any successor to IMS located at Defendant's Facility and contractors providing the following services at the Facility: asbestos removal; demolition; slag processing; painting; waste handling, including vacuum truck operators; and construction.

18. Confidential Business Information ("CBI") - Defendant may, if appropriate, declare portions of the EMS Manual, rationale or underlying information, to be confidential pursuant to 40 C.F.R. Part 2.

D. Beginning on the date of entry of this Consent Decree and continuing thereafter, Weirton shall operate and maintain the Facility to minimize the possibility of any unplanned or sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water in accordance with 40 C.F.R. § 265.31.